

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

United States of America,

Case No. 21-cr-147 (ADM/TNL)

Plaintiff,

v.

ORDER

Sarah Jean Elwood (1),
Jeffrey Paul Jackson (2), and
Geryiell Lamont Walker (3),

Defendants.

This matter comes before the Court on motions for extensions of time to file pretrial motions filed by Defendants Sarah Jean Elwood and Jeffrey Paul Jackson. Elwood has filed a Motion to Extend Dates, ECF No. 52, and a Motion to Exclude Time Under the Speedy Trial Act, ECF No. 53. Elwood has also filed a Statement of Facts in Support of Defendant's Motion for Extension of Time to File Motions, ECF No. 54. Elwood requests that the date for filing pretrial motions be continued to September 30, 2021, as she needs additional time to review discovery materials with counsel and there were COVID-19 restrictions in place at the facility where she until recently had been detained.

Jackson has filed a Motion to Continue Filing Date, ECF No. 51, as well as a Statement of Facts in Support of Exclusion of Time Under Speedy Trial Act, ECF No. 56. Jackson requests that the date for filing pretrial motions be continued to August 3, 2021, as his counsel "needs more time to review discovery and complete motions." ECF No. 51 at 1.

The Government has no objection to either extension request. ECF No. 51 at 1; ECF No. 52 at 1.

Additionally, beginning on March 13, 2020, and continuing thereafter, the Honorable John R. Tunheim, Chief District Judge for the United States District Court for the District of Minnesota, has issued a series of General Orders in connection with the COVID-19 pandemic, addressing, among other things, criminal proceedings and trials.¹ On April 29, 2021, Chief Judge Tunheim entered General Order No. 28, which allows limited in-person proceedings to start on May 3, 2021, for defendants who decline to consent to conducting the proceeding using videoconferencing, or telephone conferencing if videoconferencing is not reasonably available. *See generally In re: Updated Guidance to Court Operations Under the Exigent Circumstances Created by COVID-19*, Gen. Order No. 28 (D. Minn. Apr. 29, 2021). General Order No. 28 states that because only limited in-person proceedings may be held each day, criminal proceedings may be continued until the date that the criminal proceeding takes place.

General Order No. 28 continues to encourage the use of videoconferencing in criminal proceedings and states that, with the defendant's consent, criminal proceedings will be conducted by videoconferencing, or telephone conferencing if videoconferencing is not reasonably available.² General Order No. 28 further provides that the presiding judge

¹ All General Orders related to the COVID-19 pandemic may be found on the Court's website at <https://www.mnd.uscourts.gov/coronavirus-covid-19-guidance>.

² *See also* General Order No. 29, which went into effect on June 23, 2021, vacated General Order No. 27, and extended the Court's authorization to conduct certain criminal proceedings via video or telephone conference pursuant to the CARES Act "[b]ecause the emergency created by the COVID-19 outbreak continues to materially affect the functioning of court operations in the District of Minnesota." *In re: Updated Guidance to Court Operations Under the Exigent Circumstances Created by COVID-19*, Gen. Order No. 29 (D. Minn. June 17, 2021).

will enter orders in individual cases to extend deadlines and exclude time under the Speedy Trial Act to address delays attributable to COVID-19. **Accordingly, should a defendant file pretrial motions, counsel shall also file a letter indicating whether that defendant consents to arraignment and a motions hearing by videoconference.** *See also* ECF No. 36.

Pursuant to 18 U.S.C. § 3161(h), this Court finds that the ends of justice served by granting a continuance outweigh the best interests of the public and Defendants in a speedy trial and such continuance is necessary to provide Elwood, Jackson, and their counsel reasonable time necessary for effective preparation and to make efficient use of the parties' resources. Based on all the files, records, and proceedings herein, **IT IS HEREBY ORDERED** that:

1. Elwood's Motion to Extend Dates, ECF No. 52, is **GRANTED**.
2. Elwood's Motion to Exclude Time Under the Speedy Trial Act, ECF No. 53, is **GRANTED**.
3. Jackson's Motion to Continue Filing Date, ECF No. 51, is **GRANTED IN PART** and **DENIED IN PART**.
4. The period of time from **July 15 through October 26, 2021**, shall be excluded from Speedy Trial Act computations in this case. *See United States v. Mallett*, 751 F.3d 907, 911 (8th Cir. 2014) ("Exclusions of time attributable to one defendant apply to all codefendants." (quotation omitted)); *United States v. Arrellano-Garcia*, 471 F.3d 897, 900 (8th Cir. 2006) (same).

5. All motions in the above-entitled case shall be filed and served consistent with Federal Rules of Criminal Procedure 12(b) and 47 on or before **September 30, 2021**. D. Minn. LR 12.1(c)(1). Two courtesy copies of all motions and responses shall be delivered directly to the chambers of Magistrate Judge Leung.

6. **Should a defendant file pretrial motions, counsel shall also file a letter on or before September 30, 2021, indicating whether that defendant consents to arraignment and a motions hearing by videoconference.** *See* ECF No. 36.

7. Counsel shall electronically file a letter on or before **September 30, 2021**, if no motions will be filed and there is no need for hearing.

8. All responses to motions shall be filed by **October 14, 2021**. D. Minn. LR 12.1(c)(2).

9. Any Notice of Intent to Call Witnesses shall be filed by **October 14, 2021**. D. Minn. LR. 12.1(c)(3)(A).

10. Any Responsive Notice of Intent to Call Witnesses shall be filed by **October 19, 2021**. D. Minn. LR 12.1(c)(3)(B).

11. A motions hearing will be held pursuant to Federal Rules of Criminal Procedure 12(c) where:

- a. The government makes timely disclosures and a defendant pleads particularized matters for which an evidentiary hearing is necessary;
or
- b. Oral argument is requested by either party in its motion, objection or response pleadings.

12. If required, the motions hearing shall take place before the undersigned on October 26, 2021, at 1:00 p.m., in Courtroom 9W, Diana E. Murphy U.S. Courthouse, 300 South Fourth Street, Minneapolis, Minnesota. D. Minn. LR 12.1(d).

13. The arraignment is likewise continued and shall take place before the undersigned on October 26, 2021, at 1:00 p.m., in Courtroom 9W, Diana E. Murphy U.S. Courthouse, 300 South Fourth Street, Minneapolis, Minnesota.

14. TRIAL: The trial date, and other related dates, will be rescheduled following the ruling on pretrial motions. Counsel must contact the Courtroom Deputy for District Judge Ann D. Montgomery to confirm the new trial date.

Dated: July 29, 2021

s/ Tony N. Leung
TONY N. LEUNG
United States Magistrate Judge
District of Minnesota

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